

SENATE BILL 1843
By Ford J

AN ACT to amend Tennessee Code Annotated, Title 29, Chapter 13, relative to compensation for persons wrongly convicted of offenses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 29, Chapter 13, Part 1, is amended by adding the following as a new section:

29-13-120.

(a) Any person seeking compensation for unjust conviction for a felony offense resulting in incarceration under this part must allege and prove that:

(1) The person's conviction has been reversed or set aside on the ground that the person is not guilty of the offense of which the person was convicted, or on new trial or rehearing the person was found not guilty of such offense, as appears from the record or certificate of the court setting aside or reversing such conviction, or that the person has been pardoned upon the stated ground of innocence and unjust conviction; and

(2) The person did not commit any of the acts charged or the acts, deeds, or omissions in connection with such charge constituted no offense against this

state, the United States, or any other state, territory, or the District of Columbia, and the person did not by misconduct or neglect cause or bring about the person's own prosecution.

(b) Proof of the requisite facts shall be by a certificate of the court or pardon wherein such facts are alleged to appear, and other evidence thereof shall not be received.

(c) No pardon or certified copy of a pardon shall be considered by the claims commission unless it contains recitals that the pardon was granted after the applicant had exhausted all recourse to the courts and that the time for any court to exercise its jurisdiction had expired.

(d) The commission may permit the plaintiff to prosecute such action in forma pauperis.

(e) The amount of damages awarded shall not exceed the sum of fifty thousand dollars (\$50,000) for each twelve-month period of incarceration, except that a plaintiff who was unjustly sentenced to death may be awarded not more than one hundred thousand dollars (\$100,000) for each twelve-month period of incarceration.

SECTION 2. Tennessee Code Annotated, Section 29-13-103, is amended by adding the following as new section:

(c) The provisions of this section shall not apply to actions for compensation for unjust conviction under Section 1 of this act.

SECTION 3. Tennessee Code Annotated, Section 29-13-104, is amended by designating the existing language as subsection (a) and by adding the following as a new subsection (b):

(b) In addition to compensation authorized under subsection (a), compensation shall be made to a claimant for unjust conviction only if the claimant has met the requirements of Section 1.

SECTION 4. Tennessee Code Annotated, Section 29-13-105(a), is amended by deleting the word "or" at the end of subdivision (4); by deleting the period at the end of subdivision (5) and substituting instead a semicolon and the word "or"; and by adding the following language as a new subdivision to be designated as follows:

(6) A person who has been unjustly convicted of a crime and who meets the requirements of Section 1.

SECTION 5. Tennessee Code Annotated, Section 29-13-106(a), is amended by deleting the language "Payment" at the beginning of the first sentence of the subsection and by substituting instead the language "Except as provided in Section 1, payment".

SECTION 6. Tennessee Code Annotated, Section 29-13-106(e), is amended by deleting the language "subsection (h)" and by substituting the language "subsection (h) or Section 1".

SECTION 7. Tennessee Code Annotated, Section 29-13-108(a), is amended by designating the existing language as subdivision (1) and by adding the following as a new subdivision (2):

(2) A claim for compensation shall be filed not later than one (1) year after the occurrence of the pardon or judicial proceeding demonstrating that the claimant is not guilty of the charged offense.

SECTION 8. Tennessee Code Annotated, Section 29-13-108(b), is amended by adding the following language at the end of the subsection:

For claimants proceeding under Section 1, the claim shall set forth the information required under Section 1 instead of providing information relative to victims.

SECTION 9. Tennessee Code Annotated, Section 29-13-109(a), is amended by deleting the language "No award" at the beginning of the first sentence of the subsection and by substituting instead the language "Except as provided in Section 1, no award".

SECTION 10. Tennessee Code Annotated, Section 29-13-109(b)(2), is amended by deleting the language "Except" at the beginning of the first sentence of the subdivision and by substituting instead the language "Except as provided in Section 1 or except".

SECTION 11. The claims commission is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in accordance with the provisions of the Uniform Administrative Procedures Act, compiled in title 4, chapter 5.

SECTION 12. This act shall take effect July 1, 2003, the public welfare requiring it.